

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

PABLO ARIAS-NIEVES,

Plaintiff,

v.

B.F.I. OF PUERTO RICO, INC.,
et al.,

Defendants.

Civil No. 08-2292 (JAF)

OPINION AND ORDER

Plaintiff, Pablo Arias-Nieves, brings this action in diversity against Defendants, B.F.I. of Puerto Rico, Inc. ("BFI"), Allied Waste of Puerto Rico, Inc. ("Allied Waste"), Lazare Kaplan P.R., Inc. ("Lazare Kaplan"), and three unknown defendants, alleging tortious conduct in breach of article 1802 of the Puerto Rico Civil Code. (Docket No. 20.) Defendants BFI, Allied Waste, and Lazare Kaplan ("Movants") move to dismiss due to spoliation of evidence. (Docket Nos. 33, 35.) Plaintiff opposes the motion. (Docket No. 39.)

I.

Factual and Procedural Synopsis

We draw the following facts from the parties' pleadings and submissions. (Docket Nos. 20, 25, 30, 33, 40.)

On November 12, 2007, Plaintiff, a domiciliary of Florida, was driving a car (the "car") in Caguas when he struck a sanitation vehicle operated by Defendants. Defendants' vehicle completely

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1 blocked Plaintiff's path by parking across both lanes of the road.
2 After the incident, Plaintiff was hospitalized for his injuries.

3 On November 11, 2008, Plaintiff commenced this case in federal
4 court, seeking \$500,000 in damages. (Docket No. 1.) During
5 Plaintiff's deposition, he stated that his seatbelt malfunctioned
6 during the collision, even though he had fastened it. (Docket No. 33-
7 11.) Defendants then discovered that the car Plaintiff was driving
8 was no longer available for inspection. (Docket No. 33.) One week
9 after the collision, while Plaintiff was recuperating at the
10 hospital, Plaintiff's mother received complaints from neighbors over
11 the placement of the wrecked car in front of her house. (Docket
12 No. 33-5.) Plaintiff's mother was the title owner of the car. (Id.)
13 Under the belief that the wreck constituted a public nuisance in
14 violation of municipal ordinance, she permitted the Municipality of
15 Caguas to dispose of the car as junk. (Id.)

16 After failing to obtain the car for inspection, Movants moved to
17 dismiss on July 31, 2009. (Docket No. 33.) Plaintiff opposed on
18 August 31, 2009. (Docket No. 39.)

19 II.

20 Analysis

21 While dismissal for failure to comply with discovery rules is
22 ordinarily a sanction under Federal Rule of Civil Procedure
23 37(b)(2)(A)(v), a federal court also has the inherent power to
24 dismiss a case to prevent unfair prejudice to a defendant. Collazo-

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1 Santiago v. Toyota Motor Corp., 149 F.3d 23, 28-29 (1st Cir. 1998).
2 Dismissal is a harsh sanction that "runs counter to our 'strong
3 policy favoring the disposition of cases on the merits." Id. at 28
4 (quoting Benjamin v. Aroostook Med. Ctr., Inc., 57 F.3d 101, 107 (1st
5 Cir. 1995)). Dismissal is appropriate "to rectify any prejudice the
6 non-offending party may . . . suffer[] as a result of the loss of
7 evidence and to deter any future conduct, particularly deliberate
8 conduct, leading to such loss of evidence." Id. at 29. "Therefore, of
9 particular importance when considering the appropriateness of
10 sanctions is the prejudice to the non-offending party and the degree
11 of fault of the offending party." Id.

12 In the case at bar, Movants insist that we should dismiss this
13 action because of the loss of the car Plaintiff drove at the time of
14 his accident. (Docket No. 33.) Movants assert that, without the car,
15 they cannot inspect the functionality of the seatbelt that Plaintiff
16 claims to have failed him during the collision. (Id.) It follows,
17 according to Movants, that they would be unable otherwise to prepare
18 adequately to litigate the issue of causation of Plaintiff's
19 injuries. (Id.)

20 We are not convinced that Plaintiff's conduct during discovery
21 amounted to deliberate destruction of relevant evidence. Plaintiff's
22 mother, not he, was the title owner of the car and, thus, had the
23 right to dispose of the car as she saw fit. (Docket No. 33-5.)
24 Furthermore, there is no indication that Plaintiff and his mother
25 were in an agency relationship for the use of the car, such that her

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1 actions were imputable to him. As the submissions at this stage show
2 only venial fault, if any, on the part of Plaintiff in the loss of
3 the car, we decline to impose the harsh sanction of dismissal against
4 him. See Collazo-Santiago, 149 F.3d at 29.

5 **III.**

6 **Conclusion**

7 Accordingly, we hereby **DENY** Movants' motion for dismissal
8 (Docket No. 33) at this stage of the proceedings.

9 **IT IS SO ORDERED.**

10 San Juan, Puerto Rico, this 2nd day of September, 2009.

11 s/José Antonio Fusté
12 JOSE ANTONIO FUSTE
13 Chief U.S. District Judge